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IN THE CIRCUIT COURT OF THE  
11<sup>th</sup> JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

RGN PROPERTIES, INC.,  
a Florida corporation on behalf  
of itself and all others similarly situated,

CASE NO. 05-16420 CA 06

Plaintiff,

v.

MIAMI-DADE COUNTY,

Defendant.

*Agreed*  
**ORDER ON PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF  
SETTLEMENT AND FOR CERTIFICATION OF SETTLEMENT CLASS**

THIS CAUSE is before the Court upon the Plaintiff's Motion for Preliminary Approval of Settlement and for Certification of Settlement Class. In accordance with Rule 1.220 of the Florida Rules of Civil Procedure, the Court has considered the Settlement Agreement executed on behalf of the Plaintiff and Defendant. Upon review of the Settlement Agreement and Plaintiff's Motion for Preliminary Approval, and upon a hearing held on October 22, 2009, it is hereby ORDERED:

1. The terms of the settlement are within the range of reasonableness and accordingly are preliminarily approved. In addition, this Court finds that certification of the Settlement Class satisfies the requirements of Rule 1.220, and Plaintiff fairly and adequately represents the interests of the Settlement Class. The Motion for Preliminary Approval of Settlement and for Certification of Settlement Class is therefore GRANTED. This preliminary approval is subject to further consideration at the Final Fairness Hearing.

2. For the reasons set forth below, this Court hereby certifies a Settlement Class, consisting of: All owners of residential property in Miami-Dade County who have entered into a lease with a low-income tenant and a HAP contract with Miami-Dade from April 29, 2000 to the present where Miami-Dade has not paid the initial rental payment until after the first two calendar months of the first day of the initial term of the lease and for which Miami-Dade has not paid a penalty. The Court appoints Lance A. Harke, P.A. and Sarah Clasby Engel, P.A., from the law firm of Harke & Clasby LLP, as Class Counsel.

3. Given the parties' Settlement Agreement, the Court finds that the class certification prerequisites set forth in Rule 1.220, numerosity, commonality, typicality and adequacy of representation have been met, that common issues predominate over any possible individual issues that could be raised, and that the class action is superior to other available methods for the fair and efficient adjudication of this controversy.

4. At the Final Approval Hearing, the Court will consider whether the terms of the Settlement Agreement are fair, reasonable, adequate and in the best interest of the Settlement Class, and whether final orders and judgments in accordance with the terms of the Settlement Agreement should be entered.

5. The Court preliminarily finds that the Settlement Agreement was reached after arm's-length negotiations and substantial factual and legal analyses by the parties. Under the settlement, Defendant has agreed to pay \$1,150,000.00 to resolve the claims of the Settlement Class. The Settlement Agreement provides that attorneys' fees and expenses for Class Counsel shall be paid out of the Settlement Fund. Class Counsel seeks a fee equal to 23.4% of the Settlement Fund, subject to Court approval. However, the costs associated with providing notice of the

proceedings herein to the members of the Settlement Class and administration of the settlement will be paid by the Defendant in addition to the Common Fund.

6. The allocation set forth in the Settlement Agreement provides for a Common Fund to be created where cash payments will be made to all class members, less Court-approved costs, expenses, and attorneys' fees (the "Net Settlement Fund"). The Net Settlement Fund shall be paid to Class Members who submit a Claim Form in the form submitted as Exhibits B & C to the Settlement Agreement under the terms of the Allocation Plan attached as Exhibit G to the Settlement Agreement.

7. The Court approves, as to form and content, the Notice submitted by the parties and finds that the procedures described therein meet the requirements of Rule 1.220 of the Florida Rules of Civil Procedure and due process, and provides the best notice practicable under the circumstances. Here, the Settlement Class consists of all owners of residential property in Miami-Dade County who have entered into a lease with a low-income tenant and a HAP contract with Miami-Dade from April 29, 2000 to October 22, 2009 where Miami-Dade has not paid the initial rental payment until after the first two calendar months of the first day of the initial term of the lease and for which Miami-Dade has not paid a penalty. Accordingly, Defendant has records that would permit legally sufficient individual notice to each Class Member. Thus, the direct mailing of notice, along with publication of the Notices in the Miami Herald, El Nuevo Herald (in Spanish), and the Miami Daily Business Review, is reasonably calculated to reach a substantial percentage of Class Members.

8. Plaintiff's Class Counsel shall accordingly cause notice to be published in the Miami Herald, the El Nuevo Herald (in Spanish), and the Miami Daily Business Review on or

before Nov. 23, 2009. The Notice shall be substantially in the form attached to Motion for Preliminary Approval, Composite Exhibit 1.

9. Prior to the Final Approval Hearing, Class Counsel shall file proof, by affidavit, of such publication.

10. A Settlement Class Member who does not properly and timely exclude him or herself from the Settlement Class will be bound by the Settlement Agreement and the Release, as defined therein, and by any judgments in this action.

11. Subject to the terms set forth below and in the Settlement Agreement and Notice, any Settlement Class Member may appear at the Final Fairness Hearing to show cause why any of the terms of the settlement should or should not be approved as fair, reasonable and adequate, or why judgment should or should not be entered upon them. Only Settlement Class Members and others with standing shall have rights with respect to the approval of, or objection to, the settlement. At the Final Approval Hearing, any Settlement Class Member may show cause why Class Counsel's petition for attorneys' fees and expenses should or should not be approved. Any Settlement Class Member who may wish to appeal any decision with respect to the approval of the settlement, or Class Counsel's attorneys' fee request, must first formally intervene as a party. Notwithstanding any other term hereof, no Settlement Class Member or other person with standing shall, however, be heard, nor will their objections be considered or accepted, unless, pursuant to the terms of the settlement and the Notice, that Settlement Class Member or other person with standing has filed with the Court and served by first class mail, postmarked no later than Jan. 8, 2010, written objections and copies of any supporting papers and briefs, including proof of membership in the Settlement Class upon counsel for Plaintiff and Defendant, as follows:

Lance A. Harke, P.A.  
Harke & Clasby LLP  
155 South Miami Avenue  
Suite 600  
Miami, Florida 33130

*Counsel for Plaintiff*

-and-

Terrence Andrew Smith, Esq.  
Miami Dade County Attorney  
111 NW 1<sup>st</sup> Street  
Suite 2810  
Miami, Florida 33128

*Counsel for Defendant Miami-Dade County*

12. Any Settlement Class Member who does not make an objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the settlement, or Class Counsel's Motion for Attorneys' Fees and Expenses.

13. The Court expressly reserves its right to continue the Final Fairness Hearing or any adjournment thereof without any further notice other than by Order served upon Class Counsel and Defendant's counsel, or an announcement at the hearing or any adjournment thereof, and to approve the settlement with modifications and without further notice to the Settlement Class.

14. The Final Fairness Hearing will be held before this Court at the Miami-Dade County Courthouse, on March 1, 2010 at 1:30 am/pm in Room 1001, located at 73 West Flagler Street, Miami Florida, 33131, to consider the fairness, reasonableness and adequacy of the proposed settlement and to determine whether the settlement should be finally approved.

15. The Court retains jurisdiction of this action for all purposes.

DONE AND ORDERED in Chambers at Miami, Florida this 22 day of

Oct, 2009.

  
Honorable Scott J. Silverman

Copies furnished to all counsel of record

**HON. SCOTT J. SILVERMAN**  
**CIRCUIT COURT**